

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

Jeffrey Lee Bonga,

Plaintiff,

v.

Case No. 16-13685

Badawi Abdellatif, M.D., *et al.*,

Sean F. Cox

United States District Court Judge

Defendants.

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**ORDER ADOPTING 7/2/18 R&R**  
**AND GRANTING SUMMARY JUDGMENT**  
**AS TO DEFENDANT ABDELLATIF**

Plaintiff Jeffrey Lee Bonga is currently incarcerated at the Michigan Department of Corrections Earnest C. Brooks Correctional Facility. Acting *pro se*, on October 13, 2016, Bonga filed this action against multiple defendants. Bonga is proceeding without prepayment of the filing fee for this action, pursuant to 28 U.S.C. § 1915(a)(1). This Court has referred the matter to Magistrate Judge Anthony Patti for all pretrial proceedings.

On July 2, 2018, the magistrate judge issued a Report and Recommendation (“R&R”) wherein he recommends that the Court grant a motion for summary judgment filed by Defendant Badawi Abdellatif. (D.E. No. 92).

Pursuant to FED. R. CIV. P. 72(b), a party objecting to the recommended disposition of a matter by a Magistrate Judge must file objections to the R&R within fourteen (14) days after being served with a copy of the R&R. “The district judge to whom the case is assigned shall make a *de novo* determination upon the record, or after additional evidence, of any portion of the magistrate judge’s disposition to which specific written objection has been made.” *Id.*

This Court granted a request from Bonga for an extension of time to file objections and Bonga filed objections to the R&R on July 19, 2018.

As his first objection, Bonga claims that the magistrate judge erred by not construing his *pro se* pleadings liberally. (Objs., D.E. No. 96, at 1). As Defendant notes in his response to the objections, while it is true that the Court must construe *pro se pleadings* liberally, a summary judgment motion is not a pleading. *See* Fed. R. Civ. P. 7(a) (listing the only filings that constitute pleadings). Moreover, the magistrate judge's 23- page opinion explained the summary judgment standard under Fed. R. Civ. P. 56 and properly explained that the fact that Bonga is proceeding *pro se* in this action does not lessen his obligations under Rule 56 at the summary judgment phase of the case. (R&R at Pg ID 954-55). The Court finds this first objection without merit.

As his second Bonga objects to the magistrate judge's conclusion that his claims against Defendant Abdellatif are a disagreement with medical care provided. As his third and final objection, Bonga asserts that the magistrate judge erred in finding that he did not submit sufficient medical evidence to prove that Defendant Abdellatif was deliberately indifferent to his serious medical needs. The Court finds these objections without merit and agrees with the magistrate's analysis and conclusions. The R&R properly concludes that the claim against Defendant Abdellatif is a dispute over the adequacy of the treatment he provided to Bonga. As the magistrate properly found, "[w]here a prisoner has received some medical attention and the dispute is over the adequacy of the treatment, federal courts are generally reluctant to second guess medical judgments and to constitutionalize claim which sound in state tort law." *Westlake v. Lucas*, 537 F.2d 857, 860 n.5 (6th Cir. 1976). As to Defendant Abdellatif, Bonga has not

submitted sufficient evidence to proceed with an Eighth Amendment claim for deliberate indifference to serious medical needs.

Accordingly, the Court ADOPTS the July 2, 2018 R&R and ORDERS that summary judgment is GRANTED in favor of Defendant Abdellatif. As Defendant Abdellatif is the last remaining Defendant in this action, a judgment shall be issued.

IT IS SO ORDERED.

s/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: August 21, 2018

I hereby certify that a copy of the foregoing document was served upon counsel of record on August 21, 2018, by electronic and/or ordinary mail.

s/J. McCoy

Case Manager